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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/600,461 | 06/23/2003 | Lorenzo Cortelazzo | 37647/GM/br | 7264 |
| 7590 | 02/10/2005 | | EXAMINER | |
| MODIANO & ASSOCIATI Via Meravigli, 16 Milano, 20123 ITALY | | | NAGPAUL, JYOTI | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1743 | |

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UD

| | | | |
|------------------------------|-----------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/600,461 | CORTELAZZO, LORENZO | |
| | Examiner | Art Unit | |
| | Jyoti Nagpaul | 1743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/29/2004</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____. |
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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes (US 5589400).**

Hayes discloses a container assembly for treating biological samples in cytocentrifuges. The container comprises a vertical flat supporting base (12), a wall protruding at right angles from the supporting base (20), at least one funnel (22) supported by the wall and provided in a lower region thereof with a corresponding horizontal connection channel (44), a slide (16), and a filtering card (Col. 1, Lines 47-49). The support (18) being formed from a single element made of molded plastic material, such as polyethylene (Col. 5, Lines 19-21). The support (18) comprises of a flat supporting body provided with protruding edges (See Fig. 1), clamp means (24) at said edges and made integral therewith for accommodating and retaining, in succession, the slide, the filtering card and the base of the container. The support further includes a transverse pivot (56) protruding from said supporting body and made as an integral part thereof for fixing the support to a centrifuge. (See Figure 1)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes in view of Wendt. (US 4209923)**

Refer above for the teachings of Hayes.

Hayes fails to teach containment tabs.

Wendt teaches a slide holder. The slide holder comprises of integrally formed two mutually flexible retaining springs/hooked-shaped tabs. (Col. 3, Lines 10-11)

It would have been obvious to one of the ordinary skill in the art to modify the support of Hayes to include containment tabs/hooked-shaped tabs in order to securely and firmly hold the slide, the filtering card and the supporting base of container.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN


Jill Warden
Supervisory Patent Examiner
Technology Center 1700